

GENERAL TRAVERSE and REQUEST FOR RECONSIDERATION

With all due respect to the Examiner, the claims at bar in this application have been rejected in light of previous art that concerns itself with motorcycle backrests. Ware (4,313,639) discloses an adjustable motorcycle backrest that is hinged so that it folds backward in line with the direction of travel. The Ware device uses two release clamps that allow the user to adjust the backrest to a comfortable position. If the release mechanism fails, the backrest will fall over backward. If the Ware device were modified for use on a recreational vehicle and the release mechanism failed, the rider would be ejected from the vehicle. This situation is discussed in the specification at paragraph 34.

The major difference between Ware and the device at bar (Burleson) is that the Ware device folds backward out of the way; whereas, the Burleson device rotates sideways to a position where it is then used for remounting. Thus the Burleson device is totally different in operation, and final use, to the Ware device.

Stark et al. (5,997,088) is another backrest used with a motorcycle and discloses a backrest that serves as a true backrest in the upright position and as an extra seat in a folded position. Again, like Ware, the Stark device folds backward out of the way and serves as an extra seat when not in use. It cannot serve as an aid for remounting the vehicle from the water.

Mesinger (1,240,587) is another backrest used with a motorcycle. The Mesinger device, like the device at bar, rotates about an axis that is aligned with the direction of travel of the vehicle. Mesinger states that the device serves two purposes: a) "novel construction of the saddle back" and b) "swung sidewise of the saddle top . . . to be *readily cleared during mounting and dismounting*." (Col 1, lines 10 – 26 – *Emphasis added*). The device at bar uses a quick release – unlike Mesinger – mechanism that allows the seatback to be rotated about an axis that is aligned with the direction of travel – like Mesinger – but to allow the rider to use the seatback to remount the vehicle from the water.

The true difference between Mesinger and the device at bar is that the seatback is used

to remount the vehicle in the Burleson device – **the seatback is important to remounting and aids in remounting the watercraft!** In Mesinger the seatback is NOT completely placed out of the way during remounting – **in other words the seatback is a nuisance in remounting!** Furthermore, Mesinger rotates up to 90 degrees (see Figure 4 of Mesinger); whereas, Burleson rotates 180 degrees (see Figure 3 of the instant application). Thus, the device at bar is totally different to the Mesinger device.

The Examiner stated that the art of Bonfilio (6,068,334), Hanagan (4,953,911), Harano et al. (4,506,754), Bochynsky (3,887,231), George (3,822,917) and Petersen (202/0011745) all show various features of the claimed invention. Each of these devices is designed for use on motorcycles and incorporate similar features the Ware device. In other words, all of these devices fold backward out of the way and are NOT used to aid the rider in remounting the vehicle.

The Examiner also stated that the art of Schnitzenbaumer (6,206,399) and Zachary (5,501,168) show various features of the claimed invention. Schnitzenbaumer discloses a body support and brace for use on a bicycle. This device, like Ware folds backward and serves no purpose in remounting the bicycle. Zachary was discussed in the original specification in paragraph 0008. The Zachary device **BLOCKS** remounting of the vehicle.

It is believed that the above arguments describe the fundamental difference between the art cited by the Examiner (or Applicant) and show how the prior art teaches away from using the backrest as a means to remount the vehicle. Reconsideration is respectfully requested.

Support for Amendments in the Claims

In general the claims have been amended by adding a series of limitations and have been amended to clearly point out and claim the invention – a rotational backrest that serves to aid a rider in remounting a personal watercraft from the water. Originally the claims were structured to the general class of recreational vehicles, but have been limited to personal watercraft. Support for this particular limitation may be found in paragraph 0002 and in the drawings as submitted.

The claims clearly show that the backrest rotates about an axis that extends from the seat front to the seat rear. Support for these limitations may be found in the specification, the claims as originally presented and in the drawings. The amendments add NO new material.

Specific Amendments in the Claims and Traverse

Claim 1 has been amended in the preamble by first stating that the seatback is attached to a personal watercraft rather than used on a recreational vehicle. The personal watercraft has been defined as having a seat and a longitudinal axis located approximately in the middle of the seat. The actual language being "having a seat with a right side, a left side, a top side, a bottom side, a front and a rear and having a longitudinal axis extending from the front of the seat projecting beyond the rear of the seat and located between the top side and the bottom side of the seat and further located between the right side and the left side of the seat."

The second element of the claim – rotational means – has been amended to combine the mounting means and the rotational means into one "rotational mounting means." This rotational means is limited to "attaching said seatback to the personal watercraft thereby" and further adding the limitation rotation "about the longitudinal axis."

The third element of the claim – latching means – has been amended to include a "quick release" and the "latching and quick release means" has been limited as to being "integral to said rotational mounting means." Finally the limitation that the latching and quick release means holds the seatback in an upright "until released" has been added.

The fourth element has been incorporated into the second element.

The description of the seat having front, rear sides and the axis is supported by old claim 2 (now cancelled) and by the drawings. Similarly the limitations to the rotational mounting means are supported by the drawings as is the integral latching and quick release means.

It is believed that claim 1 as amendment now distinguishes the invention at bar from the Ware device and traverses the Examiner's rejection. The rotation about a longitudinal axis is clearly defined (unlike Ware and Stark) and as having as a quick release (unlike Mesinger).

Claim 2 has been cancelled with some of its material being incorporated into claim 1.

Claim 3 has been amended to depend from claim 1 and claims that the "rotational mounting means" is attached to the frame of the personal watercraft. This is not a major change, but is required because the "mounting means" is now part of the "rotational mounting

means. Support is found in the drawings, specification and original claim 3.

Similarly claim 4 has been amended to depend from claim 1 and claims that the "rotational mounting means" is attached to the seat. Support is found in the drawings, specification and original claim 4.

It is believed that claims 3 and 4, because they depend from claim 1 which has been amended to distinguish the device at bar from Ware and Mesinger, now traverses the Examiner's rejection.

Claims 5 – 7 have been cancelled.

Claim 8 has been amended to refer to the "latching and quick release" means. This amendment is supported by the drawings (as explained in claim 1 above).

Claim 9 has been amended to by replacing "latch mechanism" with - - latching and quick release means - - . The amendment serves to meet the Examiner's rejection and to properly refer to "the latching and quick release means" defined in claim 1. This amendment is supported by the drawings (as explained in claim 1 above). It is believed that claim 9, as amended, now traverses the Examiner's rejection under 35 U.S.C. sec. 112, 2nd paragraph.

It is believed that claims 8 and 9, because they depend from claim 1 which has been amended to distinguish the device at bar from Ware, Mesinger and Stark, now traverse the Examiner's rejection.

Claim 10 has been amended in the preamble by first stating that the seatback is attached to a personal watercraft rather than used on a recreational vehicle. The personal watercraft has been defined as having a seat and a longitudinal axis located approximately in the middle of the seat. The actual language being "having a seat with a right side, a left side, a top side, a bottom side, a front and a rear and having a longitudinal axis extending from the front of the seat projecting beyond the rear of the seat and located between the top side and the bottom side of the seat and further located between the right side and the left side of the seat."

The second element of the claim – rotational means – has been amended to combine the mounting means and the rotational means into one "rational mounting means." This

rotational means is limited to "attaching said seatback to the personal watercraft thereby" and further adding the limitation "approximately 180 degrees about the longitudinal axis."

The third element of the claim – electromagnetic locking means – has been limited as to being "integral to said rotational mounting means."

The fourth element has been incorporated into the second element.

Claim 11 has not been amended.

Claims 12 and 13 (original improperly numbered and corrected by the Examiner) have been amended to refer to the combined rotational mounting means of claim 10. These are not major changes, but are required because the "mounting means" is now part of the "rotational mounting means." Support is found in the drawings, specification and the original claims.

Claim 10 has been amended to clearly distinguish itself from Ware – rotation about a longitudinal axis. Further, as explained earlier Ware does NOT disclose a device that results in the use of the seatback as a BOARDING AID. Thus, the claim as amended claims a SAFETY device that readily rotates and uses an electromagnetic means (as described in the specification). Since Ware did not envision the use of the seatback as a means for remounting, the invention at bar cannot be obvious. It is believed that Applicant has properly traversed the Examiner's objection. In a similar manner claim 11 cannot be obvious for the same reasons given above and it is believed that the Examiner's objection is properly traversed.

Claims 12 and 13 claim mounting the safety device (of claim 10) to either the frame of the vehicle or to the seat. This covers both a retrofit and factory installed options. Again it is believed that the rejections of the Examiner have been properly traversed.

Claim 14 has been amended in the preamble by first stating that the seatback is attached to a personal watercraft rather than used on a recreational vehicle. The personal watercraft has been defined as having a seat and a longitudinal axis located approximately in the middle of the seat. The actual language being "having a seat with a right side, a left side, a top side, a bottom side, a front and a rear and having a longitudinal axis extending from the front of the seat projecting beyond the rear of the seat and located between the top side and the bottom side of the seat and further located between the right side and the left side of the

seat."

The third element has been amended by stating that it is "attached to said seatback." Similarly the sixth element has been amended by stating that it is "attached to said latch pin." These amendments add no new material and are supported in the drawings: further they more properly reflect the invention and the interconnection of the elements.

The seventh element has been more properly defined as a mounting means for attaching "said swivel plate" to the personal watercraft – there being no "rotational mounting means" defined in the original claim (no antecedent).

The limitation wherein the operation of the spring and latch pin was described has been amended by stating that "said latch pin and said spring are integrally mounted within said swivel plate." This amendment is supported in the drawings and adds no new material.

Finally, the limitation "approximately 180 degrees about the longitudinal axis" has been to the final section of the claim thereby fully defining the operation of the seatback. This limitation is supported in the drawings.

Claim 15 has been cancelled.

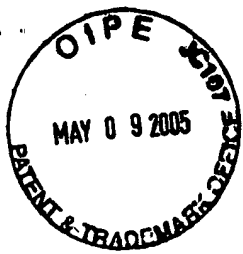
Claims 16 and 17 have been amended to claim that the "swivel plate" of claim 14 may be attached to the frame or the seat of the vehicle. These are not major changes, but are required because the "mounting means" is now attached to the "swivel plate" in claim 14. Support is found in the drawings, specification and original claims 16 and 17.

Claim 18 has been cancelled.

To traverse the rejection of claims 14 – 18, as being anticipated by Mesinger, the independent claim 14 has been clearly amended to distinguish the Mesinger device from the device at bar – mainly by incorporating limitations such as a quick release mechanism and stating the seatback revolves by 180 degrees. This amendment PLUS the fact that the device at bar is used to remount – UNLIKE MESINGER – should properly traverse the rejections of the Examiner. (Note that claims 15 and 18 have been cancelled.)

Finally, it is believed that the rejection of all claims (1 – 18) under 35 U.S.C. sec. 112, 2nd paragraph has been traversed by amending the claims to claim the seatback and leaving out

all references to axes defined on the recreational vehicle – now personal watercraft. Applicant apologizes for the confusion in the originally drafted claims.



GENERAL REMARKS and REQUEST FOR RECONSIDERATION

The above amendments to the claims and the specification add NO new material. Support for the amendments may be found in the specification, drawings and claims as originally filed and as explained above.

Applicants believe that they have properly traversed the rejections and objections of the Examiner and that they have presented a proper and respectful request for reconsideration of the rejected claims. Acceptance and entry of the amendments is respectfully requested.

Applicants now believe that the application is in condition for allowance and such is respectfully requested. There are no additional fees due.

Respectfully submitted

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Attachments

- Copy of Original Information Disclosure as filed on 30 December 2003

CERTIFICATE OF EXPRESS MAILING UNDER 37 CFR 1.10(a)

I, C. W. Alworth, hereby certify that this Response to the Final Office action and Request for Continuing Examination in the above identified patent application, and the attachments, was properly placed (prepaid) in the Express Mail Service of the United States Postal Service – receipt number EV 405150161 US - on the 9th day of May, 2005. Under the Rules of the Office, the Commissioner is hereby requested to assign the date of filing as the date of Express Mailing – namely 9 May 2005.

C. W. Alworth

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Applied Herewith
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United States Patent Documents

Initial	Document Number	Date	Name	Class	Sub-Class
_____	337,147	01/1888	Delaney	-	-
_____	1,240,587	09/1917	Mesinger	-	-
_____	5,501,168	03/1996	Zachary	114	363
_____	6,021,734	02/2000	Sperberg	114	363
_____	6,299,254	09/2001	Dinh et al.	297	408

Foreign Patent Documents

None

Other Documents

None

Examiner

Date Considered

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